

BEDFORD CONSERVATION COMMISSION

Minutes of Meeting

March 26, 2014

Selectmen's Meeting Room

Town Hall, Bedford, MA

PRESENT: John Willson, Vice Chair; John Britton; Tim Gray; Lori Eggert; Andreas Uthoff; Allan Wirth, Clerk
Elizabeth Bagdonas, Conservation Administrator; Stephanie Ide,
Conservation Department Assistant

ABSENT: Steven Hagan, Chair

The meeting was called to order at 7:00 pm.

Mr. Willson read the Public Record Statement as approved by Town Counsel on 9/10/12.

Request for Amendment to the Order of Conditions: 285 Great Road

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Mr. Michael Lesburg, Mr. Gerard Drucker, Mr. William Drucker, Attorney Susan Bernstein and Mr. John Hession of EBI Consulting were present before the Commission on behalf of the Great Road Shopping Center to request an Amendment to the Order of Conditions, DEP File # 103-0716 at 285 Great Road. The Applicant is proposing changes to the work originally proposed, to include a change in the proposed use, the curb cut location and minor modifications to the proposed site plan. The proposed project is within Riverfront Area to Elm Brook, Bordering Land Subject to Flooding and within the 100-foot buffer zones to Bank, Land Under Waterway, Bordering Vegetated Wetland and Bordering Land Subject to Flooding. Mr. Hession explained that the curb cut relocation would put it further away from Elm Brook resulting in a reduction of pavement within the buffer. Mr. Hession submitted a revision plan sheet dated March 26, 2014 which highlights all of the project revisions. Mr. Hession added that there will be 200 cubic feet of additional flood storage with the new project revisions.

A motion was made by Mr. Gray and seconded by Mr. Uthoff to approve the Amendment to the order of Conditions contingent upon receipt of final impervious surface calculations within the 100 foot buffer. The motion passed 6-0-0.

Request for Determination of Applicability: Fawn Lake Fence

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Ms. Adrienne St. John of the Town of Bedford Department of Public Works was present before the Commission to discuss the proposed installation of 230 feet of fence along the northern shore of Fawn Lake within the 100-foot buffer zone to Bordering Vegetated Wetland and Land Under Waterbody. Ms. St. John explained that

the geese like to have easy access to water and the fence deters them from being on lawn by blocking their access. The installation of the fence will take place mid-spring.

A motion was made by Mr. Uthoff and seconded by Mr. Britton to issue a negative Determination for reason three and a positive Determination for reason five. The motion passed 6-0-0, after which the Determination was then signed.

Request for Determination of Applicability: 50 Concord Road

A motion was made and seconded to waive the reading of the public notice. The motion passed 6-0-0. Attorney Richard Davidson on behalf of Brown and Brown, PC and Mr. Richard Iovino were present before the Commission for the proposed reconstruction of a parking lot within the 100-foot buffer zone to bordering vegetated wetland. Mr. Iovino stated that there will be a reduction in the impervious surface and that a silt fence will be installed to prevent any runoff. The parking lot will be resurfaced and will remain at the existing grade.

A motion was made by Mr. Uthoff and seconded by Mr. Gray to issue a negative Determination for reason three and a positive Determination for reason five. The motion passed 6-0-0, after which the Determination was then signed.

(Rough transcript of RDA - 398 Davis Road) SI 4/23/14

Request for Determination of Applicability: 398 Davis Road

Mr. Richard Davidson of Davidson Law was present on behalf of Ms. Pamela Brown of Brown and Brown, PC who represents Mr. Sonny Ferrante of Ferrante Construction who was also present before the Commission to discuss the proposed site work associated with the construction of a single family house within the 100-foot buffer zone to bordering vegetated wetland.

Mr. Davidson stated that the construction is well beyond the 100-foot buffer according to the Wetland Town Maps for the construction of a new house at 398 Davis Road. Mr. Davidson said that we have been advised that possibly due to a (swale) at the elevation of 148 feet there may be a question of where the wetlands actually exist. One of the problems we are having with that is that there is snow on the ground. This has been a yard that has been mowed for years, so I doubt that there is any wetland vegetation there at the moment. Mr. Davidson continued to say that even if we use the line that was drawn at elevation 148, which was provided to us, we are still outside of the first 50 feet and within the 50 to 100-foot buffer. We don't believe that that should be the calculation at this point but even just agreeing in principle. We have already put out haybales along that line when they took out the trees on the property. Ms. Bagdonas asked what trees they took out. Mr. Davidson stated the trees on the left hand side of the house and outside of the 100-foot line as well as just shy of where the back porch would be on the map, to the left of the driveway going down to about where the end of the house was. The tree removal was needed in order to construct the new house that will be going in there. Mr. Davidson said that they want to address the issue and are willing to compromise and say that we need someone to come and take a look at this if this is a true issue but we can't do it at this time because of snow cover. Ms. Bagdonas said that there is no snow cover at

this time. Mr. Gray stated that there are no plants out there at the present time either. Ms. Bagdonas said, of course there are plants, when you are ready for me to do the evaluation I will be glad to do it. Mr. Davidson told the Commission that when his client constructed 400 Davis Road a few years back this issue was not raised and this line that we are showing here that says (shallow depression) to elevation 148 was on that property in the back as well and we weren't required at that time to calculate or adjust for wetlands. It seems to be something new, we built that house, that house was outside of the 100-foot buffer from the town map just like this site is. Precautions were taken prior to construction when that house was built as well. Mr. Gray, This could have been an oversight last time. Mr. Willson, Elizabeth I guess if I understand your memo Pam was arguing that there have been other instances when we have basically said that when the weather is good we will go back and validate it but in this case nothing has been done, it is not an existing delineation, it needs to be delineated. Ms. Bagdonas, exactly. Mr. Willson, This makes it different than what Pam was referring to because a delineation was never done. Ms. Bagdonas, unless there has been a delineation done, this map is maybe 40 years old done from aerials in the late 70's. With a new house, new house construction you need to know where the wetland line is. Not only for now but for in the future for the homeowners. Ms. Bagdonas... Elevation 148 is not where I am proposing the new wetland line is, it is where the edge of the shallow depression, this means it is a little shallow pocket where water tends to get trapped and what of course creates wetlands. So when we first started looking at these wetland maps people told me watch out for these shallow depressions, they are usually wetlands and they are often wetlands. I think it is reasonable to do a wetland investigation on this and that needs to be done by an outside consultant and then the Commission needs to review it. The two projects Pam is referring to are 26 Notre Dame Road where a delineation was done but snow was on the ground and 200 Springs Road the VA Hospital where again a delineation was done. Ms. Bagdonas stated that she was just at a DEP workshop last week and that DEP has not yet resumed its wetland reviews because of all the snow cover. I don't believe the ground is really frozen anymore at 398 Davis Road you might be able to get someone out there pretty soon. I can't see issuing a permit for a new house that is pinned to a delineation that was never done. The Commission discussed having the applicant get a delineation done. Mr. Gray, we need an NOI with a delineation done. Ms. Bagdonas, you can postpone this until he gets a delineation done. Mr. Uthoff, I don't think that we need to insist on a NOI until we know that it is within wetlands, just postpone it until the delineation is done and then we can determine if an RDA or a NOI is needed. Mr. Ferrante stated that he could get someone out there but when he last went out there it was still under snow. Mr. Ferrante, when she goes out there and delineates and says the wetland is where they are shown on the town maps we aren't even coming back here correct? Ms. Bagdonas, no you need to come back, the Commission is going to have to review whatever you have done. Mr. Ferrante, I don't understand the law because if she says the wetlands are where they are shown we are not in your jurisdiction. Ms. Bagdonas, no not until the Commission agrees. Mr. Davidson requested a postponement for two weeks and stated that they will get a professional down there to do a delineation. Ms. Bagdonas, if you need more time you can have more time. Mr. Davidson, we would like a two week postponement, we think that we will be able to get it done. Mr. Willson, we will continue this to the meeting of April 9th. Ms. Bagdonas, there should be a site

visit before that date. Mr. Ferrante, (speaking to EB) with you after the delineation is done. Ms. Bagdonas, the Commission should probably come along too. Mr. Uthoff, we need the report and site visit at least two days before the meeting. Ms. Bagdonas, you need to also request the Determination under the Town of Bedford Wetlands Protection Bylaw so I would like a letter to that affect, not that it really changes anything because the Commission does look at soils but under the bylaw you only need vegetation. Ms. Bagdonas, Please revise page 1 of the RDA request form. Mr. Uthoff made a motion to continue the hearing to the meeting of April 9, 2014. Ms. Bagdonas stated subject to the receipt of the field data reports.

11A Curve Street:

Mr. Mathew Hayes was present before the Commission to discuss finishing the construction of a deck that he was permitted to do several years ago but did not complete. Mr. Hayes stated that he did pour the footings for the deck and constructed the compensation area but didn't go forward with the decking. The Commission will not require Mr. Hayes to file a new Notice of Intent for the decking.

CPC & Land Acquisition Committee Vote:

A motion was made by Mr. Wirth and seconded by Mr. Gray to recommend Ms. Lori Eggert for appointment to the Community Preservation Committee and the Land Acquisition Committee. The motion passed 4-1-0, with Mr. Uthoff voting against.

Green Dance:

A motion was made by Ms. Eggert and seconded by Mr. Britton to express support for the Green Dance. The motion passed 4-2-0 with Mr. Uthoff and Mr. Gray voting against.

A motion was made by Ms. Eggert and seconded by Mr. Gray to adjourn the meeting. The motion passed 6-0-0 adjourning the meeting.

The meeting was adjourned at 9:15 pm.

The minutes were prepared by Stephanie Ide.

The minutes were approved at the meeting of May 28, 2014.